SINGLE BENCH

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 4153 / 2005

PETITIONER

Harpreet Singh Ahluwalia
S/o Gurmit singh Ahluwalia
Aged about 29 years,
By profession Advocate ,
At present residing in GF-I,
Ajit Apartment Karbala Road , Near High Court, Dist- Bilaspur (C.G)

P.R. No. 4262/05
Presented by Shri Rahul Bhatt
dated 23/8/05

Versus

RESPONDENTS

1) State of Chhattisgarh
Through III[rd] Additional District Judge,
Bilaspur (C.G)

2) Davinder Kaur Ahluwalia
W/o Harpreet singh Ahluwalia,
Aged about 24 years
At present resident of, 20-Chandrasetu Society, Opposite to Amarnath Mahadev, Pawan Chaki Road, Dist- Nadiad (Gujarat)

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23/8/05
CLERK, A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A SUITABLE WRIT ORDER OF DIRECTION TO DO JUSTICE IN THE MATTER.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 4153/05 ..... **सन् 200**

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

07.9.2005

Shri Prafull Bharat, counsel for the petitioner.

Shri Sandeep Dubey, Govt. Advocate for the State.

By this writ petition under Article 227 of the Constitution of India the petitioner has questioned the legality, propriety and correctness of order dated 13.10.2004 (Annexure P-3) passed by learned 3rd Additional District Judge, Bilaspur thereby rejecting the application of the petitioner & respondent No.2 herein filed jointly under Section 14 of the Hindu Marriage Act, 1955 for grant of leave to present the divorce petition before expiry of one year from the date of marriage and consequent thereto dismissing the divorce petition jointly filed by the petitioner & respondent No.2 herein under Section 13(B) of Hindu Marriage Act, 1955.

Learned counsel for the petitioner submitted that the order rejecting the application for grant of leave has been passed without assigning any reason and without allowing the parties to file further affidavit in order to establish the exceptional hardship as envisaged under Section 14 of the Hindu Marriage Act, 1955.

Having heard learned counsel for the parties, I have perused the impugned order.

Learned 3rd Additional District Judge, Bilaspur while rejecting the application under Section 14 of the Hindu Marriage Act, 1955 has not assigned any valid reason, therefore, I am of the opinion that it would be in the interest of justice to set aside the impugned order and matter be

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

remanded back to learned 3rd Additional District Judge directing him to allow the parties to file further affidavit in order to establish the exceptional hardships and to decide the said application thereafter.

It is admitted position that the divorce petition has been filed jointly with the mutual consent, therefore, issuance of notice to respondent No.2 will further delay the matter, as such, notice is not being issued to respondent No.2. However, if respondent No.2 has any grievance against this order then she will be at liberty to move an application for modification/recalling the order on its merit.

In the result, the petition is allowed. The order impugned is set aside, matter is remanded back to the learned Additional District Judge with a direction to grant time to the parties to file further affidavit in order to establish their exceptional hardships for consideration of the application filed under Section 14 of the Hindu Marriage Act, 1955.

At this stage counsel for the petitioner submits that respondent No.2 is coming to Bilaspur on 12.9.2005. Therefore, let the matter be placed before the learned 3rd Additional District Judge, Bilaspur on 12.9.2005 and petitioner to inform respondent No.2 about the order and request her to appear before that Court on that date.

With the aforesaid, the petition stands disposed of.

Consequently, I.A. No.7636/05 also stands disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge